

Article - Labor and Employment

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§3–1706.

(a) (1) In this section the following words have the meanings indicated.

(2) “Family member” means:

(i) a biological child, an adopted child, a foster child, or a stepchild of the essential worker;

(ii) a child for whom the essential worker has legal or physical custody or guardianship;

(iii) a child for whom the essential worker stands in loco parentis, regardless of the child’s age;

(iv) a biological parent, an adoptive parent, a foster parent, or a stepparent of the essential worker or of the essential worker’s spouse;

(v) the legal guardian or ward of the essential worker or of the essential worker’s spouse;

(vi) an individual who acted as a parent or stood in loco parentis to the essential worker or the essential worker’s spouse when the essential worker or the essential worker’s spouse was a minor;

(vii) the spouse of the essential worker;

(viii) a biological grandparent, an adoptive grandparent, a foster grandparent, or a stepgrandparent of the essential worker;

(ix) a biological grandchild, an adopted grandchild, a foster grandchild, or a stepgrandchild of the essential worker; or

(x) a biological sibling, an adopted sibling, a foster sibling, or a stepsibling of the essential worker.

(3) “Public health emergency leave” means paid leave that an essential employer provides to an essential worker during an emergency as required under subsection (d) of this section.

(b) This section applies only if the federal or State government provides funding that can be used for public health emergency leave.

(c) An essential employer shall provide an essential worker with public health emergency leave on the date the funding is made available to the essential employer.

(d) An essential employer shall provide paid public health emergency leave:

(1) in addition to any other leave or benefit, including earned sick and safe leave under Subtitle 13 of this title; and

(2) in the following amounts:

(i) if specified in a federal program, order, law, or regulation, the amount provided for under the program, order, law, or regulation; or

(ii) if not specified in a federal program, order, law, or regulation:

1. for full-time essential workers who regularly work 40 or more hours per week, 112 hours;

2. for part-time essential workers who regularly work less than 40 hours per week, an amount of hours equivalent to the average hours worked during a typical 4-week working period;

3. for essential workers whose schedules and amount of hours worked vary from week to week, the average number of hours that the essential worker was scheduled per week over the 6-month period ending on the date on which the emergency is declared or proclaimed; or

4. if the essential worker did not work during the 6-month period ending on the date on which the emergency is declared or proclaimed, the reasonable expectation of the essential worker at the time of hiring or the average number of hours per week that the worker would normally be scheduled to work, whichever is greater.

(e) Each essential employer shall allow an essential worker to use public health emergency leave provided under subsection (c) of this section in relation to an emergency:

(1) to isolate without an order to do so because the essential worker:

(i) has been diagnosed with the communicable disease that is the subject of the emergency; or

(ii) is experiencing symptoms associated with the communicable disease that is the subject of the emergency and is awaiting the results of a test to confirm the diagnosis;

(2) to seek or obtain a medical diagnosis, preventive care, or treatment because the essential worker is diagnosed with the communicable disease that is the subject of the emergency;

(3) to care for a family member who is isolating, without an order to do so, because of a diagnosis of the communicable disease that is the subject of the emergency;

(4) due to a determination by a public health official or health care professional that the essential worker's presence at the place of employment or in the community would jeopardize the health of other individuals because of the essential worker's exposure to, or exhibited symptoms associated with, the communicable disease that is the subject of the emergency, regardless of whether the essential worker has been diagnosed with the communicable disease;

(5) to care for a family member due to a determination by a public health official or health care professional that the family member's presence at the place of employment or in the community would jeopardize the health of others because of the family member's exposure to, or exhibited symptoms associated with, the communicable disease that is the subject of the emergency or due to symptoms exhibited regardless of whether the family member has been diagnosed with the communicable disease; or

(6) to care for a child or other family member:

(i) when the care provider of the family member is unavailable due to the emergency; or

(ii) if the child's or family member's school or place of care has been closed by a federal, State, or local public official or at the discretion of the school or place of care due to the emergency, including if the school or place of care is physically closed but providing instruction remotely.

(f) This section may not be construed to:

(1) require an essential employer to compensate an essential worker for unused public health emergency leave when the essential worker leaves employment;

(2) preempt, limit, or otherwise affect any other law that provides for public health emergency leave benefits that are more generous than required under this section;

(3) preempt, limit, or otherwise affect any workers' compensation benefits that are available under Title 9 of this article;

(4) prohibit an essential employer from adopting and enforcing a policy that prohibits the improper use of public health emergency leave, including prohibiting a pattern of abuse of the leave; or

(5) prohibit an essential employer from providing additional public health emergency paid leave or any other type of leave.

(g) (1) An essential employer may require an essential worker who uses public health emergency leave to provide documentation of the need to use the public health emergency leave.

(2) If an essential worker fails or refuses to provide documentation as required by an essential employer under paragraph (1) of this subsection, an essential employer may refuse to pay the essential worker for the public health emergency leave.

(3) The Commissioner shall adopt regulations regarding the forms of documentation that an essential employer may require under paragraph (1) of this subsection.

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